

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 05-0215

Sales/Use Tax

Periods of 2001 Through 2003

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Sales/Use Tax: Equipment

Authority: 45 IAC 2.2-5-8; IC 6-8.1-5-1(b); 45 IAC 15-11-2; IC 6-8.1-10-1(e)

The taxpayer protests the proposed assessment of tax on an auto loader.

STATEMENT OF FACTS

The taxpayer manufactures glass/ceramic panels for kitchen appliances, which are in turn sold to appliance manufacturers. More facts will be provided below as needed.

I. Sales/Use Tax: Equipment

DISCUSSION

As noted, the taxpayer protests the proposed assessment of tax on an auto loader (referred to by the taxpayer as a "[r]obotic loader"). The Auditor found the following:

The review of capital assets revealed taxable purchases on which no sales or use tax has been paid. Additional taxable purchases include an auto loading system, equipment rental and a lathe. The auto loader loads raw materials, glass, onto the production line. No change has occurred to the raw materials prior to being loaded onto the line. As such the auto loader equipment is preproduction and not entitled to the manufacturing exemption.

45 IAC 2.2-5-8(a) states that "In general, all purchases of tangible personal property by persons engaged in the direct production, manufacture, fabrication, assembly, or finishing of tangible personal property are taxable." However, 45 IAC 2.2-5-8(b) notes:

The state gross retail tax does not apply to sales of manufacturing machinery, tools, and equipment to be directly used by the purchaser in the direct production, manufacture, fabrication, assembly, or finishing of tangible personal property.

As 45 IAC 2.2-5-8(c) makes clear, the equipment must “have an immediate effect on the article being produced.”

The Auditor argues that the auto loader is pre-production, and thus does not come within the ambit of the manufacturing exemptions. 45 IAC 2.2-5-8(d) deals with “preproduction” and states in relevant part:

“Direct use in the production process” begins at the point of the first operation or activity constituting part of the integrated production process....

Property, per 45 IAC 2.2-5-8(f), “used for moving raw materials to the plant prior to their entrance into the production process is taxable.”

The taxpayer states the following:

We are using robotics to lift raw material onto the production line to start production/processing of the product.

And also:

The start of our integrated production process is with the robots lifting the raw material onto the production line.

And in follow-up correspondence, the taxpayer states, in part:

1. Raw materials—Glass is stored in the raw glass storage/warehouse area. The forklift truck brings the glass to the production area. The cutting operator will prepare the raw glass boxes to be loaded into the Reis Robotic loader.
2. Cut set up piece—This is the start of the cut and edge operation. Glass is taken out of the box by the Reis Robotic loader and placed on the conveyor. The conveyor takes the glass to the CNC cutter. At this point the glass is cut to a specific size and placed on the CNC edger. ...

The question is whether or not the auto loader (robotic loader) is the first step in the production process for the taxpayer or is it pre-production. The taxpayer itself seems to characterize the auto loader as pre-production when it states “We are using robotics to lift raw material onto the production line to *start* production/processing of the product.” (*Emphasis added*). 45 IAC 2.2-5-8(c) states in part:

- (4) Because of the lack of an essential and integral relationship with the integrated production system in Example (1), the following types of equipment are not exempt:

....

(G) Equipment used to remove raw material from storage prior to introduction into the production process or to move finished products from the last step of production.

Taking raw materials—glass in this case—out of a box, to be loaded on to the conveyor system, is pre-production. The auto loader does not have an immediate effect on the glass.

Lastly, in correspondence, the taxpayer included penalty and interest in its requested adjustments. Under IC 6-8.1-5-1(b) the taxpayer bears the burden of proof. The taxpayer did not develop any arguments regarding the penalty and interest, and is thus denied on the penalty and interest too—*See* 45 IAC 15-11-2 regarding the penalty, and IC 6-8.1-10-1(e) regarding the interest.

FINDING

The taxpayer's protest is denied.

DP/JM/DK 061702